

Attorney for Plaintiff
JIM GASKINS dba GASKINS CONSTRUCTION

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

IN RE:

JAMES HASS,

Debtor,

JIM GASKINS dba GASKINS CONSTRUCTION.

Plaintiff,

V.

JAMES DANIEL HASS,

Defendant.

Case No.: 10-44130-A-7

Adv. No.: 11-02041

~~(PROPOSED) ORDER AFTER~~
~~TRIAL~~ FINDINGS & CONCLUSIONS

Trial Date: September 5, 2012

Time: 9:00 a.m.

Judge: Honorable Michael S. McManus

Plaintiff JIM GASKINS dba GASKINS CONSTRUCTION, by his adversary complaint seeks a finding of nondischarability pursuant to 523(a)(2) of the Bankruptcy Code, of a debt confirmed by a Second Amended Judgment dated November 19, 2009, following a Jury Verdict in the California State Court action in Sacramento County Superior Court entitled Gaskins vs. Hassco General Builders, Inc. et al., Case No. 34-2008-00007475 (the “State Court Action”) against Defendant JAMES DANIEL HASS.

This adversary action was tried before the Honorable Michael S. McManus, Judge of the United States Bankruptcy Court, Eastern District of California, on September 5, 2012. Attorney Todd A. Murray appeared for Plaintiff Jim Gaskins, who was present in court. Attorney Loretta Helen appeared for Defendant James Daniel Hass, who did not appear.

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2 The purpose of the trial was to determine the dischargeability of a debt under Bankruptcy
3 Code Section 523(a)(2). The Plaintiff claimed that there is a valid debt owed by the bankrupt that
4 arose as a direct result of the intentional misrepresentations of the Defendant and it therefore
5 should not be discharged. Defendant denied that Section 523(a)(2) applied and contended the
6 obligation should be found dischargeable.

7 Evidence was submitted in the form of Declarations and Exhibits from the California
8 State Court Action. After reviewing the evidence, this Court finds that the Plaintiff established
9 that in the State Court Action, a jury rendered a verdict in which it specifically found in a Special
10 Verdict that Defendant Hass made intentional misrepresentations to Plaintiff Gaskins and that as
11 a result, Plaintiff suffered damages in the amount of \$160,000.00.

12 The jury further found that Hass engaged in such conduct with malice, oppression, or
13 fraud, and awarded \$100,000.00 in punitive damages. The punitive damage award was
14 subsequently overturned by the Trial Court because of an absence of proof on the financial
15 condition of Defendant, but the court denied Defendant's motions for Judgment Notwithstanding
16 the Verdict and for New Trial on the merits of the Jury's findings. The Judge specifically denied
17 such motions and in the Final Judgment, made the Jury's Special Verdict, including the finding
18 of intentional misrepresentation, a part of the Judgment.

19 Plaintiff presented evidence that the amount of the debt is currently \$131,875.63, and
20 Defendant did not contest this amount.

21 Defendant made various arguments, including that the State Court Verdict allowing both
22 contract and fraud damages, was inappropriate under California law and that the Judgment
23 actually included only damages for contract claims. The court considered all of the arguments by
24 Defendant and rejected them as either having more properly been the subject of appeal of the
25 State Court Action or as being inapplicable.


26 Based on the evidence, the court found that there was a valid debt of \$131,875.63, plus
27 interest at the California legal rate of ten percent continuing from September 5, 2012. Further
28 that the issues raised by Probate Court 5423(b)(2), as to dischargeability, were necessarily

1 determined by the California Court and that all of the elements of collateral estoppel are present
2 and that the Judgment should therefore be given full faith and credit by this court.
3 ~~it will be determined~~

4 Therefore, it is ~~Ordered~~ that the obligation of \$131, 875.63, plus ongoing interest, is
5 nondischargeable and shall survive the bankruptcy discharge of James Daniel Hass.
6 A separate judgment will be entered.

7 Dated: October 10, 2012

By the Court

8 
9 Michael S. McManus
United States Bankruptcy Judge